

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ansmann et al.
Appl. No. : 09/931,670
Filed : 08/16/01
Title : COSMETIC PREPARATIONS

Grp./A.U. : 1616
Examiner : D. Jones

Docket No. : H 2674A PCT/US

#9
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Honorable Commissioner for Patents
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This paper is in response to the Office Action dated November 14, 2002 in the instant application.

The Examiner had previously indicated that the claims are directed to the following groups of inventions: group (I) claims 11-14 and 18-22 drawn to a compositions and uses thereof comprising a dialkyl ether, a cationic polymer, and a fatty acid N-alkyl polyhydroxyalkyl emulsifier, classified in class 424, subclass 401; group (II) claims 11-13, 15 and 18-22, drawn to compositions and uses thereof comprising a dialkyl ether, a cationic polymer, and an alkyl ether sulfate emulsifier, classified in class 424, subclass 401;

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and group (III) claims 11-13 and 16-22, drawn to compositions and uses thereof comprising a dialkyl ether, a cationic polymer and a betaine emulsifier, classified in class 424, subclass 401.

In response thereto, Applicant traversed the restriction requirement and requested reconsideration and withdrawal thereof. However, in order to comply with the requirement of Rule 142, Applicant provisionally elected the invention of Group II, claims 11-13, 15 and 18-22, with traverse, for further examination on the merits.

The Examiner had also made the claimed invention subject to an election of species requirement stating that a specific dialkyl ether must be elected, along with a specific cationic polymer, along with a specific emulsifier. In response thereto, Applicant traversed the election of species requirement and requested reconsideration and withdrawal thereof.

However, In order to comply with the requirement of Rule 142, Applicant had provisionally elected distearyl ether, cationic cellulose derivatives, and alkyl ether sulfates which read on claims 11, 12, 15 and 18-22, with traverse, for further examination on the merits. Apparently, Applicant's election of the above-identified species was insufficient, for examination purposes.

Applicant then proceeded to have a telephone interview with the Examiner's supervisor, a Mr. Jose Dees in order to discuss the merits of both the restriction and election of species requirement. Mr. Dees argued with Applicant that, at a minimum, the election of species requirement should never have been made. Applicant was then told that Mr. Dees would discuss the matter with the Examiner and then telephone Applicant regarding its disposition. No such phone call was ever received by Applicant. As a result, Applicant is now once again forced to make an election of species requirement, which was agreed to as being unnecessary by Mr. Dees, at the last minute, in order to avoid payment of additional monies associated with an extension-of-time fee(s).

Once again, in order to comply with the requirement of Rule 142, Applicant is provisionally electing distearyl ether, quaternized hydroxyethyl cellulose, and sodium


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laureth sulfate which read on claims 11, 12, 15 and 18-22, with traverse, for further examination on the merits.

Respectfully submitted,

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Name: Examiner D. Jones, USPTO

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Art Unit 1616

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- Response to Restriction Requirement (3 pages)